

AMENDED IN SENATE JUNE 2, 2004

AMENDED IN SENATE JUNE 16, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 428**

**Introduced by Assembly Members Richman and Canciamilla**

February 14, 2003

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~~An act to add Section 367.6 to the Public Utilities Code, relating to energy resources. An act to add Article 17 (commencing with Section 400) to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, and to amend Section 80110 of the Water Code, relating to electricity.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 428, as amended, Richman. ~~Electrical corporations: core, noncore, and core-elect customers~~ *Public Utilities Commission: direct transactions.*

(1) Under existing law, the Public Utilities Commission regulates electrical corporations. The Public Utilities Act requires the commission to authorize direct transactions between electricity suppliers and end-use customers. However, other existing law suspends the right of retail end-use customers to acquire ~~direct access~~ service from certain electricity suppliers after a period of time to be determined by the commission until the Department of Water Resources no longer supplies electricity under a certain provision of law. Existing law requires the commission to review and adopt a procurement plan for

~~each electrical corporation. The commission is required to establish procurement balancing accounts to track the differences between recorded revenues and costs to ensure that each electrical corporation timely recovers prospective procurement costs pursuant to their procurement plan.~~

~~The bill would require the commission, on or before January 1, 2005, to adopt rules under which nonecore customers, as defined, by a date certain on or before June 30, 2005, elect whether to procure electricity service (commodity service) from an electric service provider, elect to receive commodity service from the electrical corporation under a procurement plan for a minimum period of 3 years, or receive default commodity service from the electrical corporation. Beginning January 1, 2006, an electrical corporation's obligation to provide commodity service from its procurement plan would extend only to core and core-elect customers, as defined, and to provide default commodity service to nonecore customers. Default commodity service would be provided at the higher of the electrical corporation's costs of spot electricity purchases, or the tariff rate for core-elect customers purchasing commodity service pursuant to the electrical corporation's procurement plan. The commission would be required to establish rules to ensure that the costs of providing default commodity service to nonecore customers are paid solely by those nonecore customers, without impacting the rates and charges of core customers. The bill would require the commission, on or before July 1, 2004, to establish tariffs for nonecore customers that include all applicable transmission, distribution, public goods, and cost recovery surcharge costs otherwise paid by nonecore customers for certain purposes. Nonecore customers that begin taking commodity service from an electric service provider on or after January 1, 2006, would be required to pay certain costs consistent with those costs that customers of a community choice aggregator are required to pay under existing law. The bill would require the commission to establish rules or tariffs that provide an option for residential customers to receive commodity service through direct transactions from renewable resources beginning January 1, 2006, consistent with cost recovery requirements applicable to community aggregators. Because a violation of a rule or order of the commission is a crime, this bill would create a new crime, thereby imposing a state-mandated local program.~~

~~*This bill would require the commission, on or before April 1, 2005, to establish rules, as prescribed, for the phased implementation of direct*~~

*transactions, and a core/noncore model for direct transactions, to commence January 1, 2009, consistent with described principles. The bill would require the commission, for the period commencing January 1, 2006, until January 1, 2009, in a given year, to permit direct transactions in an amount equivalent to the combined amount of load growth and reduction in the electricity supply contract obligations of the department.*

*The bill would require the Independent System Operator to enforce resource adequacy requirements adopted by the commission, subject to the oversight of the commission and the Legislature.*

*The bill would require the commission, on or before April 1, 2005, to prepare and submit to the Legislature and the Governor a report on the rules the commission has adopted pursuant to the bill.*

*The bill would require the commission, on or before October 1, 2005, to review each procurement plan and would prohibit the commission from adopting a procurement plan pursuant to that review unless the commission finds that the electrical corporation has demonstrated to the commission that its procurement plan complies with the schedule for the phased implementation of direct transactions adopted by the commission.*

*The bill would end the suspension of the right or retail end-use customers to acquire service from other providers on January 1, 2006, and require that, on and after that date, the acquisition of service from other providers be in accordance with the above-described provisions of the bill.*

*A violation of a rule or order of the commission is a crime. This bill, by requiring the commission to adopt new rules, the violation of which would be a crime, would create a new crime, thereby imposing a state-mandated local program.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



*The people of the State of California do enact as follows:*

~~SECTION 1. It is the intent of the Legislature to do all of the~~  
SECTION 1. Article 17 (commencing with Section 400) is  
added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
Code, to read:

Article 17. Direct Transactions

400. (a) On or before April 1, 2005, the commission shall  
establish rules for the phased implementation of direct  
transactions. The commission may establish reserve requirements,  
energy efficiency obligations, and any other requirements the  
commission determines to be necessary to ensure bundled  
customer indifference to direct transactions. For the period  
commencing January 1, 2006, until January 1, 2009, in a given  
year, the commission shall permit direct transactions in an amount  
equivalent to the combined amount of load growth and any  
reduction in the contract obligations of the Department of Water  
Resources pursuant to Division 27 (commencing with Section  
80000) of the Water Code.

(b) On or before April 1, 2005, the commission shall establish  
a core/noncore model for direct transactions, to commence  
January 1, 2009, consistent with all of the following principles:

(1) Permits specified electrical corporation customers to  
purchase electricity directly from electric service providers.

(2) Provides that noncore customers forgo both the benefits and  
future-incurred costs of bundled electricity service from the  
electrical corporation.

(3) Provides that remaining core customers are served by the  
electrical corporation's electricity resource portfolio.

(4) Requires each electrical corporation to maintain the value  
of its electricity resource portfolio for core customers.

(5) Ensures electrical corporations and core customers full and  
timely recovery of costs, including investments in long-term  
resource additions to the system, originally incurred to serve  
departing customers.

(6) Provides for full recovery of existing direct access  
customers' energy cost obligations on a schedule comparable to  
the recovery of comparable costs from core customers.

1 (7) Provides an election process for determining which  
2 customers wish to remain core customers, and which customers opt  
3 for noncore service, administered in a manner that ensures a stable  
4 customer base for electrical corporations to support long-term  
5 integrated resource planning and investment.

6 (8) Requires electric service providers to comply with  
7 conditions, including resource adequacy standards, that the  
8 commission determines to be necessary and appropriate to ensure  
9 there is no adverse effect on the reliability or cost of electricity for  
10 core customers.

11 (9) Requires electric service providers to comply with the  
12 requirements established pursuant to Article 16 (commencing with  
13 Section 399.11).

14 (10) Permits core customers to purchase renewable power at  
15 cost via electrical corporation renewable service options, in  
16 addition to an electrical corporation's obligations under Article  
17 16 (commencing with Section 399.11).

18 (11) Restricts the eligibility of noncore customers to return to  
19 bundled service. The commission shall determine whether the  
20 electrical corporation service should provide service to returning  
21 noncore customers, and at what terms, or establish a default  
22 service provider. Any option shall ensure that there is no cost  
23 shifting from noncore to core customers.

24 (12) Shows that a core/noncore program will support, and not  
25 be detrimental to, system reliability and future investments in  
26 electricity infrastructure and the objective of acquiring all  
27 cost-effective demand reduction resources on the system.

28 (13) Compares the public benefits of core/noncore to other  
29 electric service options, including bundled service and community  
30 choice aggregation, as provided in Section 366.2.

31 (14) Protects existing contractual rights.

32 (c) The Independent System Operator shall enforce any  
33 resource adequacy requirements adopted by the commission  
34 pursuant to this section, subject to the oversight of the commission  
35 and the Legislature.

36 (d) On or before April 1, 2005, the commission shall prepare  
37 and submit to the Legislature and the Governor a report on the  
38 rules the commission has adopted pursuant to subdivisions (a) and  
39 (b), including, but not limited to, the specific actions taken by the  
40 commission to comply with the principles listed in subdivision (b).

1     (e) On or before October 1, 2005, the commission shall review  
2     each procurement plan prepared and submitted by an electrical  
3     corporation pursuant to Section 454.5 and shall not adopt a plan  
4     pursuant to that review unless it finds that the electrical  
5     corporation has demonstrated to the commission that its  
6     procurement plan complies with the schedule for the phased  
7     implementation of direct transactions adopted by the commission  
8     pursuant to this section. The commission shall establish transition  
9     rules that allow an electrical corporation to avoid stranding  
10    capacity through its procurement plan.

11    SEC. 2. Section 80110 of the Water Code is amended to read:  
12    80110. The department shall retain title to all power sold by  
13    it to the retail ~~end-use~~ end-use customers. The department shall be  
14    entitled to recover, as a revenue requirement, amounts and at the  
15    times necessary to enable it to comply with Section 80134, and  
16    shall advise the commission as the department determines to be  
17    appropriate. ~~Such~~ The revenue requirements may also include any  
18    advances made to the department hereunder or hereafter for  
19    purposes of this division, or from the Department of Water  
20    Resources Electric Power Fund, and General Fund moneys  
21    expended by the department pursuant to the Governor's  
22    Emergency Proclamation dated January 17, 2001. For purposes of  
23    this division and except as otherwise provided in this section, the  
24    Public-Utility Utilities Commission's authority as set forth in  
25    Section 451 of the Public Utilities Code shall apply, except any just  
26    and reasonable review under Section 451 shall be conducted and  
27    determined by the department. The commission may enter into an  
28    agreement with the department with respect to charges under  
29    Section 451 for purposes of this division, and that agreement shall  
30    have the force and effect of a financing order adopted in  
31    accordance with Article 5.5 (commencing with Section 840) of  
32    Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, as  
33    determined by the commission. ~~In no case shall the~~ The  
34    commission shall not increase the electricity charges in effect on  
35    the date that the act that adds this section becomes effective for  
36    residential customers for existing baseline quantities or usage by  
37    those customers of up to 130 percent of existing baseline  
38    quantities, until ~~such time as~~ the department has recovered the  
39    costs of power it has procured for the electrical corporation's retail  
40    ~~end-use~~ end-use customers as provided in this division. After the

1 passage of ~~such~~ a period of time after ~~the effective date of this~~  
2 ~~section~~ February 1, 2001, as shall be determined by the  
3 commission, the right of retail ~~end-use~~ end-use customers pursuant  
4 to Article 6 (commencing with Section 360) of Chapter 2.3 of Part  
5 1 of Division 1 of the Public Utilities Code to acquire service from  
6 other providers shall be suspended until ~~the department no longer~~  
7 ~~supplies power hereunder~~ January 1, 2006. *On and after January*  
8 *1, 2006, the acquisition of service from other providers shall be in*  
9 *accordance with Article 17 (commencing with Section 400) of*  
10 *Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code. The*  
11 *department shall have the same rights with respect to the payment*  
12 *by retail* ~~end-use~~ end-use customers for power sold by the  
13 department as do providers of power to ~~such~~ those customers.

14 SEC. 2. *No reimbursement is required by this act pursuant to*  
15 *Section 6 of Article XIII B of the California Constitution because*  
16 *the only costs that may be incurred by a local agency or school*  
17 *district will be incurred because this act creates a new crime or*  
18 *infraction, eliminates a crime or infraction, or changes the penalty*  
19 *for a crime or infraction, within the meaning of Section 17556 of*  
20 *the Government Code, or changes the definition of a crime within*  
21 *the meaning of Section 6 of Article XIII B of the California*  
22 *Constitution.*

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25 **All matter omitted in this version of the**  
26 **bill appears in the bill as amended in the**  
27 **Senate, June 16, 2003 (JR 11)**  
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